

281—41.156(256B,34CFR300) Personnel qualifications.

41.156(1) General. The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of Part B of the Act and of this chapter are appropriately and adequately prepared, trained, and licensed, including ensuring that those personnel have the content knowledge and skills to serve children with disabilities.

41.156(2) Related services personnel and paraprofessionals. The qualifications under subrule 41.156(1) must include qualifications for related services personnel and paraprofessionals that:

a. Are consistent with any state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and

b. Ensure that related services personnel who deliver services in their discipline or profession:

(1) Meet the requirements of 41.156(2) “*a*”; and

(2) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(3) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with state law, regulation, or written policy, in meeting the requirements of this chapter to be used to assist in the provision of special education and related services under this chapter to children with disabilities.

41.156(3) Qualifications for special education teachers. The qualifications described in subrule 41.156(1) must ensure that each person employed as a public school special education teacher in the state who teaches in an elementary school, middle school, or secondary school meets the following standards:

a. The teacher has obtained full state certification as a special education teacher, including certification obtained through alternative routes to certification, or has passed the state special education teacher licensing examination and holds a license to teach in the state as a special education teacher, except that a teacher teaching in a public charter school must meet the certification or licensing requirements, if any, set forth in the state’s public charter school law;

b. The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

c. The teacher holds at least a bachelor’s degree.

41.156(4) Policy. In implementing this rule, the state must adopt a policy that includes a requirement that AEAs and LEAs in the state take measurable steps to recruit, hire, train, and retain personnel described in this rule to provide special education and related services under Part B of the Act and this chapter to children with disabilities.

41.156(5) Rule of construction. Notwithstanding any other individual right of action that a parent or student may maintain under this chapter, nothing in this chapter shall be construed to create a right of action on behalf of an individual student or a class of students for the failure of a particular SEA, AEA, or LEA employee to meet the requirements of this rule, or to prevent a parent from filing a complaint about staff qualifications with the SEA as provided for under this chapter.

41.156(6) Positive efforts to employ and advance qualified individuals with disabilities. Each recipient of assistance under Part B of the Act must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under Part B of the Act.

41.156(7) Additional rules of construction.

a. A special educator teaching in one or more core academic subjects must be appropriately licensed in each core academic subject or must collaborate with an appropriately licensed teacher.

b. A teacher will be considered to meet the standard in subrule 41.156(3) if that teacher is participating in an alternative route to special education certification program as follows:

(1) The teacher meets the following requirements:

1. Before and while teaching, receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction;

2. Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or in a teacher mentoring program;

3. Assumes functions as a teacher only for a specified period of time not to exceed three years;
and
4. Demonstrates satisfactory progress toward full certification as prescribed by the state; and
 - (2) The state ensures, through its certification and licensure process, that the provisions in subparagraph 41.156(7) “b”(1) are met.

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